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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,939	07/15/2003	Robert R. Fulper	NWK1659	6651
7590		03/09/2004	EXAMINER	
Sean A. Kaufhold		ARK, DARREN W		
P.O. Box 131447		ART UNIT		
Carlsbad, CA 92013		PAPER NUMBER		
		3643		
DATE MAILED: 03/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/618,939	Applicant(s) FULPER, ROBERT R.	
	Examiner Darren W. Ark	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/15/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The Examiner would like to indicate to applicant that Pat. No. 373,171 to Negreanu has not been considered because either the patent number is incorrect or the name of the patent holder is incorrect. Examiner requests that applicant supply the correct patent no. so that this reference may be properly considered as part of the prior art of record.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 1 and 5, the phrase "wherein said ring member is positioned over an end of the fishing rod..." renders the claim vague and indefinite since the fishing rod has not been positively set forth as part of the desired invention. It should be functionally recited as "...said ring member is positionable over an end of the fishing rod..."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cafarella 5,839,218.

Cafarella discloses a ring member (4) of circular shape with a smooth outer surface, with an inner diameter between ½ inch and 2 inches (radius of gyration between 2-5 inches), the ring member positionable over the end of a rod (5); the ring member comprising a plastic material having buoyancy in water (4 is made of polyethylene with a hollow interior defined by wall 11; see Fig. 6) and which is phosphorescent (fluorescing filler 10 provides excellent luminescence for night fishing).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cafarella 5,839,218 in view of Great Britain Pat. No. 2,093,671 to Smith.

Alternatively, Cafarella does not disclose the ring member an inner diameter between $\frac{1}{2}$ inch and 2 inches. It would have been an obvious matter of design choice to size the ring member such that it has an inner diameter between $\frac{1}{2}$ inch and 2 inches in order to appropriately size the device according to the size of rod to be used or the desired sensitivity which is related to how closely it engages the rod and thus the amount of slack allowed in the line before the ring member indicates a fish taking the bait.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cafarella 5,839,218 in view of Great Britain Pat. No. 2,093,671 to Smith.

Cafarella does not disclose the plastic material having buoyancy in water. Smith discloses a bite detector made of buoyant materials such as polystyrene, balsa wood, cork or light weight plastics. It would have been obvious to a person of ordinary skill in the art to modify Cafarella by making it out of plastic which has buoyancy in water in view of Smith in order to provide a ring member which will can be easily retrieved from the water surface if accidentally dropped in the water.

9. Claims 1, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain Pat. No. 1,477,192 to Mulchintock.

Mulchintock discloses a ring member (3; see Figs. 1-3) with an inner diameter, the ring member capable of being positioned over a rod (can itself be placed over the rod or attached by 1), but does not disclose the ring member having an inner diameter between $\frac{1}{2}$ inch and 2 inches. It would have been an obvious matter of design choice to size the ring member such that it has an inner diameter between $\frac{1}{2}$ inch and 2 inches

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in order to appropriately size the device according to the provide a device which will give the desired amount of sensitivity, the larger the inner diameter of the ring results in a decrease in sensitivity in the device of Mulchintock.

In regard to claim 4, Mulchintock discloses a loop (4) on an outer circumference of the ring member (see Fig. 3), the loop having a smaller inner diameter than the ring member, and an elongated tether with a first end and a second end, the first end being attached to the loop (one end of fishing line extends through loops while the other end is attached to the reel).

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain Pat. No. 1,477,192 to Mulchintock in view of Great Britain Pat. No. 2,093,671 to Smith.

Mulchintock does not disclose the plastic material having buoyancy in water. Smith discloses a bite detector made of buoyant materials such as polystyrene, balsa wood, cork or light weight plastics. It would have been obvious to a person of ordinary skill in the art to modify Mulchintock by making it out of plastic which has buoyancy in water in view of Smith in order to provide a ring member which will can be easily retrieved from the water surface if accidentally dropped in the water.

11. Claims 2, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain Pat. No. 1,477,192 to Mulchintock in view of Cafarella 5,839,218.

Mulchintock does not disclose the plastic material having buoyancy in water or being phosphorescent. Cafarella discloses the ring member comprising a plastic material having buoyancy in water (4 is made of polyethylene with a hollow interior

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defined by wall 11; see Fig. 6) and which is phosphorescent (fluorescing filler 10 provides excellent luminescence for night fishing). It would have been obvious to a person of ordinary skill in the art to modify the ring member of Mulchintock such that it is made of plastic that is buoyant in water and is phosphorescent in view of Cafarella in order to provide a device which will float in water so as not to be lost and also will be able to be seen in poor light conditions.

12. Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cumnningham 4,125,957.

Cunningham discloses a ring member (40) of circular shape with a smooth outer surface, with an inner diameter, the ring member capable of being positioned over an end of the rod, but does not disclose the ring member having an inner diameter between $\frac{1}{2}$ inch and 2 inches. It would have been an obvious matter of design choice to size the ring member such that it has an inner diameter between $\frac{1}{2}$ inch and 2 inches in order to appropriately size the device according to the provide a device which will give the desired amount of sensitivity, the larger the inner diameter of the ring results in a decrease in sensitivity in the device of Cunningham since the larger the size the greater the force required to move the ring member.

In regard to claim 4, Cunningham discloses a loop (where 48 is attached; see Figs. 4, 5) attached to the ring member and a tether (48) attached at one end to the loop.

13. Claims 2, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham 4,125,957 in view of Cafarella 5,839,218.

Cunningham does not disclose the plastic material having buoyancy in water or being phosphorescent. Cafarella discloses the ring member comprising a plastic material having buoyancy in water (4 is made of polyethylene with a hollow interior defined by wall 11; see Fig. 6) and which is phosphorescent (fluorescing filler 10 provides excellent luminescence for night fishing). It would have been obvious to a person of ordinary skill in the art to modify the ring member of Cunningham such that it is made of plastic that is buoyant in water and is phosphorescent in view of Cafarella in order to provide a device which will float in water so as not to be lost and also will be able to be seen in poor light conditions.

14. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham 4,125,957 in view of Great Britain Pat. No. 2,093,671 to Smith.

Cunningham does not disclose the plastic material having buoyancy in water. Smith discloses a bite detector made of buoyant materials such as polystyrene, balsa wood, cork or light weight plastics. It would have been obvious to a person of ordinary skill in the art to modify Cunningham by making it out of plastic which has buoyancy in water in view of Smith in order to provide a ring member which will can be easily retrieved from the water surface if accidentally dropped in the water.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Great Britain Pat. No. 2,093,671 to Smith discloses a bite detector which is made of polystyrene, balsa wood, cork, or any light weight plastics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA